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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,057

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Takashi Nakanishi

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WENDEROTH, LIND & PONACK L.L.P.

2033 K. STREET, NW

SUITE 800

WASHINGTON, DC 20006

EXAMINER

LIN, WEN TAI

ART UNIT

PAPER NUMBER

2454

MAIL DATE

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01/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,057	Applicant(s) NAKANISHI ET AL.	
	Examiner Wen-Tai Lin	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-12, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 13-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-18 are presented for examination.

Claim Rejections – 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

Specifically, the claims appear to focus on determining an Internet connection status depending on whether or not an underlying terminal obtains a DNS server's response for a domain name resolution request. Such usage does not go beyond what an Internet user would experience with a nominal browser. That is, a computer user may type a URL into the address box of a browser, be it intentionally or unintentionally entered, the URL may not exist in the DNS database. And the user is able to make a judgment about the Internet's connection status based on what the displayed message on the browser.

Further, the subject matter of claim 17 is a software program, which does not fall within one of the four statutory categories of invention.

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To overcome the 101 rejection, Applicant is recommended to: (1) cancel claim 17; and (2) relate more specifically the use of Internet connection status to, for example, the URI printing application as stated in specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 9-12 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA [Applicant Admitted Prior Art].

5. As to claims 1-4, AAPA teaches the invention substantially as claimed by using an Internet connection terminal to send, via a router (or relay device), a name resolution request to a server for resolving a host name or a domain name; and an Internet connection status determining unit [e.g., a browser] operable to determine, based on a response to the name resolution request, an Internet connection status that indicates whether or not said Internet connection terminal apparatus is connected to the Internet [e.g., paragraphs 12-15].

AAPA does not teach that the DNS request uses a host name or a domain name which has not been registered in the DNS server. However it is well understood that upon entering a

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URL into the browser's address box, one experiences four possible outcomes via the browser's messages: (1) the URL is successfully reached; (2) the URL is either unrecognized; (3) the server at the URL is too busy; and (4) a time out report indicating that the Internet is not connected, wherein messages (1) – (3) indicates that the Internet connectivity is in good condition, while message (4) indicates that the Internet connection fails.

Furthermore, it is also well understood that a user could have intentionally or unintentionally entered an unregistered URL which leads to messages (1) or (4), and that based on the messages the user is also able to determine the same status of the Internet connection as claimed.

Thus, since AAPA's system has already incorporated the possibility of entering an unregistered domain name or host name which leads to the same Internet connectivity determination, it is submitted that the subject matter in claims 1-4 is not patentably distinct over AAPA.

6. As to claims 9-12 and 17-18, since the features of these claims can also be found in claims 1-4, they are rejected for the same reasons set forth in the rejection of claims 1-4 above.

7. Claims 5-8 and 13-16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

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8. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571)272-1915. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 for official communications; and

(571) 273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

January 25, 2009

/Wen-Tai Lin/

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Primary Examiner, Art Unit 2454